

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff

v

Case No.:11-20129

Hon.: ROBERT H. CLELAND

D-1 SCOTT WILLIAM SUTHERLAND,
D-2 RONALD ROBERTS
D-3 DAVID ROBERTS
D-4 PATRICK McKEOUN
D-8 VINCENT WITORT
D-11 JOHN RIEDE
D-13 GARY NELSON
D-15 RAYMOND MELIOLI
D-16 TIMOTHY DOWNS
D-20 TONY KITCHENS, et al.

Defendants.

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**MEMORANDUM IN REACTION TO
GOVERNMENT'S MEMORANDUM OF CASE MANAGEMENT**

The defendants herein, in unison, by and through Liaison Counsel, LOREN M. DICKSTEIN, hereby submits this Memorandum in Reaction to the Government's Memorandum of Case Management, and state the following:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Neither admitted nor denied for the reason that there are no assertions, allegations or statements regarding case management contained therein.\

- a. Discovery - Defendants object to the request for protective order filed by the government. One or more responses from the defendants are or will be filed with specific objections. The defendants in Group 2 specifically join in any such objections by not opting out as per the court's directive at the August 22, 2012 scheduling conference/pretrial.

In addition to any such objections, counsel for Group 2 defendants specifically object as it relates to those defendants who are incarcerated, some several hours from the Detroit Area. For any incarcerated defendants who wish to review the evidence, counsel would literally have sit with his or her client while said defendant reviews what is believed to be in excess of 10,000 pages of discovery and an unknown quantity of audio/video evidence. The waist in federal funds that would be incurred while defense counsel sat with their clients during this process would be monumental.

Additionally, there are less restrictive means by which the government's interest in protecting any ongoing investigations can be employed.

- b. Format and Cost of Discovery - Defendant's request that given the volume of discovery that is expected in this matter, any Electronically Stored Information (ESI)/digital discovery should be processed through optical character recognition software, be searchable and categorized or indexed. The expense incurred by the government in scanning and categorizing the discovery would be eclipsed by the expense of all the DJA defense attorneys having to review the discovery without the processing and organizing of the discovery by the United States Attorney's Office. The defendant's would like to direct the court to Attorney General

Holder's article that was published in the Georgetown Law Journal, 41 Geo. L.J. Ann. Rev. Crim. Proc. (2012) which states in conclusion: "As the Protocol advises, 'in complex discovery cases, a table of contents to the available discovery materials can help expedite the opposing party's review of the discovery, promote early settlement, and avoid discovery disputes, unnecessary expense and undue delay.'"

- c. Motion Practice - No objection.
- d. Local Rule Requiring Concurrence - No objection.
- e. Trial Groupings - No objection for pretrial purposes. Further, all defendants specifically object to the current groupings being considered relative to any groupings that may be necessary for trial purposes. Specific objections to such groupings for trial purposes can only be made after production of the impending discovery materials.
- f. Final Pretrial and Trial Date - No objection.

Respectfully Submitted:

By: /s/ Loren M. Dickstein, Esq.
Loren M. Dickstein (P53508)
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Liaison Counsel for Group 2
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Dated: September 26, 2012

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing Notice Regarding Defendant's Proposed Group Liaisons has this 14th day of September, 2012, been made upon all counsel of record via e-mail.

Dated: September 26, 2012

/s/ Loren Dickstein
Loren M. Dickstein (P53508)
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